

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 837

Introduced by Assembly Member Nestande

February 17, 2011

~~An act to amend Section 42310 of the Public Resources Code, relating~~
An act to add Chapter 5.9 (commencing with Section 42360) to Part 3
of Division 30 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 837, as amended, Nestande. Solid waste: plastic ~~packaging food~~
and beverage containers.

Existing law requires rigid plastic packaging containers sold or offered for sale in this state to meet specified criteria, including, but not limited to, that the container be made from 25% postconsumer material. *Existing law prohibits a person from selling a plastic food or beverage container that is labeled as “biodegradable,” “compostable,” “degradable,” or as otherwise specified, unless, at the time of the sale, the container meets the ASTM standard specification for compostable plastics, as specified, for the term used on the label.*

~~This bill would make technical, nonsubstantive changes to that provision.~~ *define terms and would prohibit a manufacturer or supplier from selling a plastic food or beverage container in this state that is advertised with a specific recycled content amount unless the manufacturer or supplier is able to provide certification of the stated recycled content in a format that is easy to understand and scientifically accurate. A manufacturer or supplier would be required to provide this information within 90 days from the date of a request by a member of the public or state agency.*

The bill would authorize a city, a county, or the state to impose civil liability for a violation of the bill's requirements and would require the penalties collected by the Attorney General to be expended by the Attorney General, upon appropriation by the Legislature, to enforce the above prohibition.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Chapter 5.9 (commencing with Section 42360)*
2 *is added to Part 3 of Division 30 of the Public Resources Code,*
3 *to read:*

4
5 *CHAPTER 5.9. PLASTIC FOOD OR BEVERAGE CONTAINER*
6 *RECYCLED CONTENT*
7

8 42360. *The Legislature finds and declares that it is the public*
9 *policy of the state that environmental marketing claims, whether*
10 *explicit or implied, should be substantiated by competent and*
11 *reliable evidence to prevent deceiving or misleading consumers*
12 *about the recycled content of plastic food or beverage containers.*

13 42361. *For purposes of this chapter, the following definitions*
14 *apply:*

15 (a) *"Plastic food or beverage container" means a plastic*
16 *package, including, but not limited to, a bottle, carton, clamshell*
17 *container, or other receptacle, for sale or distribution in the state,*
18 *that meets both of the following conditions:*

19 (1) *Is intended to be used to contain food or drink items.*

20 (2) *Has a relatively inflexible finite shape or form.*

21 (b) *"Manufacturer" means a person, firm, association,*
22 *partnership, or corporation that produces a plastic food or*
23 *beverage container.*

24 (c) *"Postconsumer material" has the same meaning as defined*
25 *in Section 42301.*

26 (d) *"Postindustrial material" means a material generated by*
27 *an original manufacturing and fabrication process.*

28 (e) *"Recycled content" means the total amount of postconsumer*
29 *material and postindustrial material in a plastic food or beverage*

1 container, expressed as a percentage of the total amount of
2 material in that plastic container.

3 (f) "Sale" means a sale that is not a retail sale, as defined in
4 Section 6007 of the Revenue and Taxation Code.

5 (g) "Supplier" means a person who purchases plastic food or
6 beverage containers from a manufacturer, for sale or distribution
7 in this state.

8 42362. (a) A manufacturer or supplier shall not sell a plastic
9 food or beverage container in this state that is advertised with a
10 specific recycled content amount unless the manufacturer or
11 supplier is able to provide certification of that claim in a format
12 that is easy to understand and scientifically accurate.

13 (b) A manufacturer or supplier, upon the request of a member
14 of the public or a state agency, shall submit to that member or
15 state agency, within 90 days of the request, information and
16 documentation demonstrating compliance with subdivision (a).

17 42363. (a) A city, a county, or the state may impose civil
18 liability in the amount of five hundred dollars (\$500) for the first
19 violation of this chapter, one thousand dollars (\$1,000) for the
20 second violation of this chapter, and two thousand dollars (\$2,000)
21 for the third and any subsequent violation of this chapter.

22 (b) Civil penalties collected pursuant to subdivision (a) shall
23 be paid to the office of the city attorney, city prosecutor, district
24 attorney, or Attorney General, whichever office brought the action.
25 The penalties collected pursuant to this section by the Attorney
26 General may be expended by the Attorney General, upon
27 appropriation by the Legislature, to enforce this chapter.

28 (c) The remedies provided by this section are not exclusive and
29 are in addition to the remedies that may be available pursuant to
30 Chapter 5 (commencing with Section 17200) of Part 2 of Division
31 7 of the Business and Professions Code.

32 (d) Costs incurred by a state agency in carrying out this chapter
33 shall be recoverable by the Attorney General, upon the request of
34 the state agency, from the liable person or persons.

35 ~~SECTION 1. Section 42310 of the Public Resources Code is~~
36 ~~amended to read:~~

37 ~~42310. Except as otherwise provided in this chapter, every~~
38 ~~rigid plastic packaging container sold or offered for sale in this~~
39 ~~state shall, on average, meet one of the following criteria:~~

40 ~~(a) Be made from 25 percent postconsumer material.~~

- 1 ~~(b) Have a recycling rate of 45 percent if it is a~~
2 ~~product-associated rigid plastic packaging container or a single~~
3 ~~resin type of rigid plastic packaging container, as demonstrated to~~
4 ~~the department by the product maker, container manufacturer, or~~
5 ~~other entity. The department may take appropriate action to verify~~
6 ~~the demonstration, but the department is not required to expend~~
7 ~~state funds to conduct a survey or calculate the rate.~~
8 ~~(c) Be a reusable package or a refillable package.~~
9 ~~(d) Be a source reduced container.~~
10 ~~(e) Be a container containing floral preservative that is~~
11 ~~subsequently reused by the floral industry for at least two years.~~